

Appl. Serial No.: 10/535,156
Amendment dated: April 23, 2009
Reply to Office Action of Dec. 3, 2008

REMARKS / ARGUMENTS

This is in response to the final Office Action mailed on December 3, 2008. No new matter is being added by the amendments made herein. Entry of this Response is respectfully requested.

Applicants firstly wish to thank Examiner Harris for agreeing to the telephone conference of April 22, 2009.

1) Claim Amendments and Support for Newly Presented Claims

Claims 12-15 and 20-25 have been cancelled without prejudice or disclaimer. **Claims 11, 26 and 27** have been amended solely for the purpose of advancing prosecution. Applicants reserve the right to pursue any subject-matter removed by this amendment in one or more divisional applications.

2) Claim Rejections – 35 U.S.C. § 112

The Examiner has rejected **claims 11-20 and 26-28** under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement and for allegedly being non-enabling. Although the Examiner confirms that “CDP/Cux p110 isoform contains CR2, CR3 and HD while the p75 isoform contains CR3 and HD”, the Examiner feels that the claims are broader than what is supported in the specification. Examiner states that “Applicants seem to be only in possession of human CDP/Cux isoforms, p200, p100, p110 and newly discovered p75.” In view of the fact that: **(a)** current claims 11 and 26 have been amended and are now limited to the “newly discovered p75” polypeptide; **(b)** claims 16-19 ultimately depend from claim 11; **(c)** claim 27 and 28 depend from claim 26; and **(d)** claims 12-15 and 20 have been cancelled, Applicants respectfully request that the

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Examiner withdraws her rejection of claims 11-20 and 26-28 for failing to comply with the written description requirement under 35 U.S.C. § 112, first paragraph. For the record, in view of the amendment to claim 11 to introduce "p75", Applicants respectfully submit that claim 20 clearly satisfies the written description requirements. Nevertheless, in view of procuring quick allowance, Applicants have cancelled claim 20, without prejudice or disclaimer.

With regard to **claim 27**, the Examiner states that "secondary reagents for detection may be labeled with radioactive compounds, enzymes, biotin, or fluorochromes, but not a combination of these molecules." Applicants disagree with the Examiner, since a combination of such reagents could be easily used by a person of skill in the art, without any undue experimentation as well known in the art. However, in order to advance prosecution, claim 27 has been amended to remove the phrase "any combination of a)-d)". Applicants therefore respectfully submit that amended claim 27 satisfies the written description requirement under 35 U.S.C. § 112, first paragraph.

The Examiner has rejected **claims 11-20** under 35 U.S.C. § 112, second paragraph has allegedly been indefinite. In view of the fact that current claim 11 has been amended to recite steps for detecting the level of p75 polypeptide in a sample, Applicants respectfully submit that current claim 11 is definite and recites a complete method, and respectfully requests that the Examiner withdraws her rejection of claim 11 under 35 U.S.C. § 112, second paragraph.

In view of the above and foregoing, Applicants respectfully request that the Examiner withdraws her rejections of claims 11-20 and 26-28 under 35 U.S.C. § 112, first and second paragraphs.

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3) Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected **claims 11, 12, 14, 15 and 20** under 35 U.S.C. 102(a) and 102(b) as allegedly been anticipated by a first or second Moon et al., reference. The Examiner is respectfully referred to comments and arguments presented above addressing the 35 U.S.C. § 112 claim rejections and more particularly to the fact that the claims are limited to the “newly discovered p75”. In view of the instant amendment to current claim 11 and the fact that claims 12-15 and 20 have been canceled, Applicants respectfully request that the Examiner withdraws her objections to the above-mentioned claims under 35 U.S.C. 102(a) and 102(b).

In view of the above and foregoing, Applicants respectfully request that the Examiner withdraws her rejections of claims 11, 12, 14, 15 and 20 under 35 U.S.C. § 102(a) and 102(b).

4) Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims **11, 12, 14, 15, 20 and 26-27** under 35 U.S.C. 103(a) as allegedly being obvious in view of the same two Moon et al., references. Furthermore, the Examiner believes that none of the elements comprised within the claims are patentably distinct over the prior art. Again, the Examiner is respectfully referred to comments and arguments presented above addressing the 35 U.S.C. § 112 claim rejections. Applicants respectfully submit that since the identification of p75 is both novel and non-obvious, its detection by any means and kits to detect same cannot be obvious. In view of the instant amendments to current claims 11 and 26, the fact that claim 27 depends from claim 26, and the fact that claims 12-15 and 20 have been canceled, Applicants respectfully request that the Examiner withdraws her rejection of the above-mentioned claims under 35 U.S.C. 103(a).

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In view of the above and foregoing, Applicants respectfully request that the Examiner withdraws her rejections of claims 11, 12, 14, 15, 20 and 26-27 under 35 U.S.C. 103(a).

5) CONCLUSION

In view of the above, it is respectfully submitted that the application and claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the telephone number shown below.